

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION**

HARRY WILEY, individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

Case No: 2:25-cv-00227

ROBERT F. KENNEDY, JR., in his official  
Capacity as Secretary of Health and Human  
Services, and U.S. DEPARTMENT OF  
HEALTH AND HUMAN SERVICES,

Defendants.

**DEFENDANTS' MOTION TO DISMISS  
PLAINTIFF'S DEMAND FOR A JURY TRIAL**

Defendants move the Court to dismiss Plaintiff's demand for a jury trial asserted in the Amended Complaint, (ECF No. 10 at 14), on the following grounds:

1. Under federal law, sovereign immunity bars jury trials against the United States and its officers acting in their official capacity unless Congress has waived sovereign immunity and expressly allowed right to a jury trial.
2. Congress has not waived the sovereign immunity of the United States to allow a right to a jury trial for the claims asserted in the Amended Complaint.
3. The Seventh Amendment right to a jury trial to the Constitution is not applicable to the claims asserted in the Amended Complaint.
4. Plaintiff's demand for a jury trial is otherwise barred by sovereign immunity and federal law.

Therefore, the Defendants respectfully request that the Plaintiff's demand for a jury trial

asserted in the Amended Complaint be denied and dismissed.

Respectfully submitted,

**LISA G. JOHNSTON**  
**Acting United States Attorney**

**s/Fred B. Westfall, Jr.**  
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**CERTIFICATE OF SERVICE**

I hereby certify that on May 1, 2025, I electronically filed the foregoing **DEFENDANTS' MOTION TO DISMISS PLAINTIFF'S DEMAND FOR A JURY TRIAL** with the Clerk of the Court using the CM/ECF system which will send notification to the following CM/ECF participants:

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**s/ Fred B. Westfall, Jr.**  
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